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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
EDWARDS JR, TIMOTHY	

ART UNIT	PAPER NUMBER
2635	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/066,549	SWETLIK ET AL.	
	Examiner	Art Unit	
	Timothy Edwards, Jr.	2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *amendment filed June 6, 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) *2 and 37* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 2-36 is withdrawn in view of the newly discovered reference(s) to Lugo '252, and Gaisser et al '295. Rejections based on the newly cited reference(s) follow.

Claim Objections

1. Claims 3-7 and 9-12 are objected to because of the following informalities: these claims depend on a cancelled claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner is not clear how a disposable transmitter included in a prepackaged kit makes it easier management and maintenance.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1,3-10,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pincus '446.

Considering claim 1, Pincus discloses a medical telemetry system comprising, a) a patient monitor (56) and a first communication element in communication with patient monitor (see paragraph [0015] and fig 2, item 58); a central station in communication with the first communication element; (see fig 1, a wireless tracking network (WTN) comprising, a cell controller (12), a hospital information system (20), a server (18) and several devices in bi-directional communication); b) a second communication element in communication with the first communication element and the central station (see paragraph [0017]); except, 1) Pincus does not specifically recite a programming station having a user interface including a predetermined portion of a display assigned to a communication channel. Pincus recites reprogramming each sensor or tag with different asset to include a selective protocol (see paragraph [0004]). Pincus shows in fig 6 a display means for changing the asset of the sensor/tag, (see paragraph [0028] and fig 6, item 106). One of ordinary skill in the art would readily recognize the display means of Pincus would have means to assign a communication channel to the device because Pincus discloses displaying the asset assigned to a transmitting device, programming each sensor/tag with a different protocol and reprogramming each transmitting device (see paragraph [0018]); c) programming station further comprises instructions for receiving patient information, storing the patient information to electronic media (see

paragraph 0015 and paragraph 0032); except 2) Pincus doe not specifically recite, taking further acts with the respect to the patient information. However, one of ordinary skill in the art would readily recognize taking further acts with respect to the patient information could be billing of a patient, or making this information a part of the patient history data or this data could be used in statistical data. Therefore, it would have been obvious to one of ordinary skill in the art the Pincus system would take further acts with respect to the patient information.

Considering claim 3, Pincus discloses the limitation of this claim (see paragraph 0026).

Considering claim 4, Pincus discloses the limitation of this claim (see paragraph 0015).

Considering claim 5, Pincus discloses the limitation of this claim (see paragraph 0016).

Considering claim 6, Pincus discloses the limitation of this claim (see paragraphs 0004 and 0028).

Considering claim 7, Pincus doe not specifically recite; taking further acts include instructions of prompting a user to label the patient monitor with a patient identifier. Pincus discloses in paragraphs 0017 and 0028 the programming of sensors with different assets. One of ordinary skill in the art would readily recognize each patient sensor would require a patient identifier, which is unique to that particular patient.

Therefore, it would have been obvious to one of ordinary skill in the art the labeling of a patient monitor with a patient identifier is within the scope of the Pincus system because Pincus disclose programming sensors for patients and each sensor would require a patient identifier unique to the patient to allow the system to know which monitoring device sending data and what patient this data is from. With regards to prompting a user to label the patient monitor, one of ordinary skill in the art would readily recognize the use of a program wizard, which guides a user through steps to be executed would have the capabilities to prompt a user to do all steps required in a particular task.

Considering claim 8, Pincus doe not specifically recite the label is manually placed on the patient monitor. However, Pincus discloses means to identify a patient monitor. One of ordinary skill in the art would readily recognize different patient's sensors would require them to specify the type of tag and/or the patient. Obviousness is as stated in claim 7.

Considering claims 9,10 the limitations of these claims are interpreted and rejected as stated in claim 7.

Considering claim 12, Pincus doe not specifically recite the user interface is a touch screen. Pincus shows, in fig 2, a keyboard user interface. One of ordinary skill in the art would readily recognize the use of a touch screen as an alterative type of user interface.

Therefore, it would have been obvious to one of ordinary skill in the art to use any known type of user interface in the Pincus system.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lugo '252 as applied to claim 1 above, and further in view of Besson et al '803 (submitted IDS).

Considering claim 11, Pincus doe not specifically recite; taking further acts include instructions for disabling the patient monitor. However, Pincus discloses an operator for monitoring and communicating with a patient monitor. Besson teaches in col 7, lines 62-67 and col 19, lines 7-10 a programming station in communication with a patient monitoring device having means to disable the patient monitor. Therefore, it would have been obvious to one of ordinary skill in the art to modify the Pincus system with means to disable a patient monitor as taught by Besson because both system are concern with patient monitoring and the programming of the patient monitors.

4. Claims 14-19,21,23-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lugo '252.

Considering claim 14, Lugo discloses a patient monitor system comprising, a) disposable transmitter connected to a patient to obtain biomedical data (see col 3, lines 24-27); b) a receiver module for transmitting biomedical data from the disposable

transmitter to a central station (see col 4, lines 29-33); c) Lugo does not specifically recite the central station processes, stores and displays the biomedical data, however in col 9, lines 35-55 Lugo discloses a central monitoring station (CMS) comprising a plurality of monitoring station used to display, monitor and download patient data from the communication module. Processing of data by the central station is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art the CMS of the Lugo system processes data because the CMS initiates communication to the appropriate providers depending on the nature of the data or request received. Lugo also, teaches the monitoring station are used to display, monitor and download patient data; d) a configuration device for configuring each disposable transmitter to work with one receiver module and the central station prior to connecting the disposable transmitter to the patient (see col 10, lines 5-16 and lines 49-54 and col 11, lines 1-17).

Considering claim 15, Lugo discloses the limitation of this claim see col 10, lines 5-16.

Considering claim 16, Lugo discloses the limitation of this claim see col 3, lines 24-34.

Considering claim 17, Lugo discloses the limitation of this claim see col 5, lines 4-8, and fir 2, item 202.

Considering claim 18, Lugo discloses the limitation of this claim see col 3, lines 62-65 and col 5, lines 58-60.

Considering claim 19, Lugo does not specifically recite the disposable transmitter includes disposal instructions for deactivating and disposing of the disposable transmitter after use. One of ordinary skill in the art would readily recognize medical disposable product would come with disposal instructions to protect the general public. Therefore, it would have been obvious to one of ordinary skill in the art the disposable transmitter of the Lugo system would come with disposal instructions to protect the general public.

Considering claim 21, Lugo does not specifically recite the electronics from the disposable transmitter is recycled after use. Lugo discloses a programmable disposable transmitter. One of ordinary skill in the art would readily recognize the recycling of programmable devices is desirable because of the reprogramming capabilities. Therefore, it would have been obvious to one of ordinary skill in the art to maintain the electronic components from the disposable transmitter of the Lugo system because of the reprogramming capabilities.

Considering claim 23 the limitations of this claim are interpreted and rejected as stated in claim 14, part (c).

Considering claim 24, Lugo discloses the limitations of this claim see col 8, lines 14-19.

Considering claim 25, Lugo does not specifically recite the central station is connected to the receiver module via a wired system. Lugo discloses in fig 1 the central station (60) is connected to the receiver (50) via a communication link. One of ordinary skill in the art would readily recognize wire or wireless links are alternate method of communication. Therefore, one of ordinary skill in the art would have the knowledge to apply the method, which would best accomplish the task of communicating data.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lugo '252 as applied to claim 14 above, and further in view of Gaisser et al '295.

Considering claim 20, Lugo does not specifically recite the disposable transmitter deactivates itself after being disconnected from the patient for a predetermined period of time. Lugo discloses a disposable patient monitoring and transmitting device, one of ordinary skill in the art would readily recognize when a disposable device has been used it no longer has any value. Gaisser teaches the use of a disposable patient transmitter after being disconnected from a patient it deactivates itself (see col 4, lines 63-67). Therefore, it would have been obvious to one of ordinary skill in the art to ensure the disposable transmitter of the Lugo system would deactivate itself as taught by Gaisser because both system are concern with the use of a disposable transmitter in a hospital environment.

6. Claim 13, is rejected under 35 U.S.C. 103(a) as being unpatentable over Lugo '252, and further in view of Braun et al '940.

Considering claim 13, Lugo discloses a patient monitor system comprising, a) one or more monitoring devices connected to a patient to obtain biomedical data (see col 3, lines 24-27 and fig 1, item 20); b) Lugo does not specifically recite the central station processes, stores and displays the biomedical data, however in col 9, lines 35-55 Lugo discloses a central monitoring station (CMS) comprising a plurality of monitoring station used to display, monitor and download patient data from the communication module. Processing of data by the central station is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art the CMS of the Lugo system processes data because the CMS initiates communication to the appropriate providers depending on the nature of the data or request received. Lugo also, teaches the monitoring station are used to display, monitor and download patient data; Lugo does not specifically recite the display includes several regions and each region is associated with one monitoring device. However, Lugo teaches the use of several EKG sensors attached to a patient. One of ordinary skill in the art would readily recognize each sensor would have its own data signal and these signal must be individually displayed. Braun et al teach in col 14, line 47 to col 15, line 28 and fig 14 the individual displaying of a plurality of EKG medical sensors. Therefore, it would have been obvious to one of ordinary skill in the art to display a plurality of patient biomedical data signal in regions associated with each monitoring device as taught by Braun in the Lugo system because

Lugo is concern with the displaying of medical sensor data and each individual sensor would have it own individual signal for display; c) configuration device (see col 9, line 58 to col 10, line 16); d) configuring each monitoring device to a channel (see col 10, lines 26-32); e) except Lugo does not specifically recite regions on the display is mapped to a specific monitoring device (limitation interpreted and rejected as stated in part (b) above).

7. Claims 26-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lugo '252 and Braun '940 and further in view of Pincus '446.

Considering claim 26, Lugo does not specifically recite, a) display comprises a plurality of patient tiles, each patient tile is associated with a disposable transmitter's transmitted data for the respective patient. Lugo shows a display means in fig 1. Lugo states in col 9, lines 36-45 the central monitoring station comprises one or more computing stations, each station includes a users interface for displaying of patient data and the monitoring of data received from disposable transmitters. Lugo discloses in col 4, lines 39-46 the use of several EKG sensors attached to a patient. One of ordinary skill in the art would readily recognize each sensor would have its own data signal. Braun et al teaches in col 14, line 47 to col 15, line 28 and fig 14 the displaying of a plurality of EKG medical sensors each signal is associated with a particular channel. Therefore, it would have been obvious to one of ordinary skill in the art to display a plurality of patient tiles, each patient tile is associated with a disposable transmitter's transmitted data for the

respective patient as suggested by Lugo because it is well known in the art to display patient data as taught by Braun. Both Braun and Lugo are concern with the displaying of medical sensor data; b) one or more input/output regions for presenting and gathering information from an operator (see col 9, lines 36-40); c) Lugo does not specifically recite an instruction region on the display. Lugo discloses initialization of the disposable transmitter with the receiver. Pincus teaches in paragraph 0017 an operator programming a device and selecting from a database the device's assets and protocol. Pincus teaches the use of instruction regions on a display to assist the operator in programming a device. Therefore, it would have been obvious to one of ordinary skill in the art the Lugo system suggests the possible displaying of instruction regions on a display as taught by Pincus because Lugo discloses the programming of biomedical sensor transmitter. One of ordinary skill in the art would readily recognize the displaying of patient data at a nurse's station or at a monitoring facility is well known in the art as taught by Braun and instruction are presented on a display is well known in the art as taught by Pincus.

Considering claim 27, Lugo does not specifically recite each patient tile is associated with a specific radio frequency on a channel that a receiver is associated with. However, in col 10, lines 5-13 Lugo discloses the receiver module detecting only signals from a particular disposable transmitter, the disposable transmitter has a plurality of sensors and the signals from the receiver is transmitted to a central station. Lugo teaches in col 4, lines 40-48 the coupling of several EKG patches to one disposable transmitter. Braun

et al teaches in col 14, line 47 to col 15, line 28 and fig 14 the displaying of a plurality of EKG medical sensors associated with specific channels on a display. Obviousness is as stated in claim 26.

Considering claim 28, Lugo does not specifically recite each patient tile appears in it pervious location each time the system is started. Braun et al teaches in col 14, line 47 to col 15, line 28 and fig 14 the displaying of a plurality of EKG medical sensors associated with a specific channel. One of ordinary skill in the art would readily recognize the display would only display a signal from a sensor associated with the particular channel to which the sensor is assigned. When the signal is received it would only display the signal at the designated area on the display. Obviousness is as stated in claim 26.

Considering claim 29 the limitations of this claim are interpreted and rejected as stated in claim 26.

Considering claim 30, Lugo discloses the limitations of this claim see col 8, lines 45-48 and col 10, lines 26-32.

Considering claims 31,34,35 the limitations of these claims are interpreted and rejected as stated in claims 14 and 26.

Considering claims 32,33 Lugo discloses the limitations of these claim see col 9, lines 36-45.

Considering claim 36, Lugo discloses a) programming a disposable transmitter detecting the present of the disposable transmitter (see Lugo col 9, line 58 to col 10, line 16); b) except Lugo does not specifically recite instructing an operator to select a patient tile that is associated with the disposable transmitter. Lugo discloses the monitoring of a patient's biomedical parameters. Performing this task would require the transmitted signal to be received by a device, the sensor's signal must be readily identifiable and the patient to which the sensor is attached and displaying this signal must be correlated together as taught by Braun (see fig 14). Therefore, it would have been obvious to one of ordinary skill in the art Lugo functionally addresses this limitation because Lugo expresses the desire to monitor and display signals from a disposable biomedical sensing device.

1. Any inquiry concerning this communication should be directed to Examiner Timothy Edwards at telephone number (571) 272-3067. The examiner can normally be reached on Tuesday-Friday, 8:00 a.m.-6:00 p.m. The examiner cannot be reached on Mondays.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached at (571) 272-3068.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-4700, Mon-Fri., 8:30 a.m.-5:00 p.m.

Any response to this action should be fax to:

(571), 273-8300 (for formal communications intended for entry)

Timothy Edwards, Jr.
Primary Examiner
September 5, 2005